



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

JUL 02 2014

John Linc Stine, Commissioner
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155-4194

Re: EPA Disapproval of Variance for Mesabi Nugget Delaware, LLC

Dear Mr. Stine:

Pursuant to the recent Order issued by the Minnesota District Court for the Minnesota District in *Water Legacy, et al. v. EPA*, No. 13-1323, EPA is disapproving the water quality standards variance for discharges by Mesabi Nugget Delaware, LLC into Second Creek that would have been effective until August 1, 2021. On October 30, 2012, the Minnesota Pollution Control Agency (MPCA) submitted this variance for review and approval by the U.S. Environmental Protection Agency, and on December 27, 2012, EPA approved the variance. EPA's decision was challenged in the matter of *Water Legacy, et al. v. EPA*. On June 2, 2014, the Court granted the United States' unopposed motion for remand, and did so without vacating EPA's original decision. The United States represented to the Court that it intended to disapprove the variance within 30 days following a remand.

Upon reconsideration, EPA is now disapproving the variance in accordance with Section 303(c)(3) of the Clean Water Act (CWA) as not being consistent with applicable requirements of the CWA. A complete explanation of the basis for today's decision is set forth in the enclosed "Basis for EPA's Disapproval of Minnesota Variance for Mesabi Nugget."

Section 303(c)(3) of the CWA provides that, when EPA disapproves a state's new or revised water quality standard as not being consistent with applicable requirements of the CWA, EPA must "specify the changes to meet such requirements." One change Minnesota could make to meet CWA requirements would be to develop and provide to EPA methods used, analyses conducted, scientific rationale, and other information demonstrating the appropriateness under all applicable aspects of 40 C.F.R. Part 131 of any variance granted for Mesabi. This could include, but not be limited to, developing, consistent with state administrative processes, information demonstrating that it is not feasible to attain the Industrial Supply and Agricultural Irrigation designated uses for the entire duration of the variance for any of the reasons specified in 40 C.F.R. § 131.10(g). If Minnesota chooses to take action following today's disapproval to again grant Mesabi a variance, Minnesota should provide the public with notice of and an opportunity

to comment on any such variance before submitting it to EPA for approval in accordance with Section 303(c) of the Clean Water Act.

If you have any questions regarding this matter, please contact Linda Holst, Chief, Water Quality Branch at (312) 886-6758.

Sincerely,

A handwritten signature in dark ink, appearing to read 'S Hedman', with a long horizontal stroke extending to the right.

Susan Hedman
Regional Administrator

Enclosure

cc: Rebecca Flood, MPCA